

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SENATE BILL 1433

AN ACT

AMENDING SECTIONS 41-1352, 42-5061 AND 42-6004, ARIZONA REVISED STATUTES;
AMENDING LAWS 2005, CHAPTER 1, SECTION 3, AS AMENDED BY LAWS 2006, CHAPTER
350, SECTION 4; RELATING TO THE HISTORICAL ADVISORY COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1352, Arizona Revised Statutes, is amended to
3 read:

4 41-1352. Historical advisory commission; membership; terms;
5 expenses; duties; historic sites review committee

6 A. A historical advisory commission is established consisting of
7 members appointed by the director for staggered terms of three years ending
8 on July 1. The commission membership of not less than ten nor more than
9 ~~twenty~~ TWENTY-FIVE members shall consist of experts in the disciplines of
10 history, arts and culture, architecture and archaeology, professional
11 librarians and archivists or persons otherwise associated with the
12 interpretation, research, writing, preservation or teaching of this state's
13 heritage, including the Indian nations' history and heritage, and the
14 director of the Arizona historical society, the director of the state museum,
15 the director of the Arizona state parks board, THE DIRECTOR OF THE OFFICE OF
16 TOURISM OR THE DIRECTOR'S DESIGNEE, THE SUPERINTENDENT OF PUBLIC INSTRUCTION
17 OR THE SUPERINTENDENT'S DESIGNEE and the state historic preservation officer.

18 B. Members shall serve without compensation but those employed by the
19 state shall be reimbursed for travel and subsistence by the department or
20 agency they represent and those who are not employed by the state are
21 eligible for reimbursement of expenses by the commission pursuant to title
22 38, chapter 4, article 2.

23 C. The commission shall:

24 1. Advise the legislature and state agencies on matters relating to
25 this state's history and historic preservation.

26 2. Recommend measures to the legislature and state agencies to
27 coordinate or improve the effectiveness of activities of state agencies and
28 agencies of the political subdivisions of this state and other persons
29 relating to the interpretation, research, writing and teaching of this
30 state's history, heritage and historic preservation, including the Indian
31 nations' history, heritage and preservation.

32 3. Advise the legislature and state agencies on the dissemination of
33 information pertaining to activities relating to historic preservation as
34 provided in paragraph 2.

35 4. Encourage, in cooperation with appropriate public and private
36 agencies, the Indian nations and other persons, training and education in the
37 field of the interpretation, research, writing and teaching of this state's
38 history, heritage and historic preservation.

39 5. Submit annually on September 30 a report of the commission's
40 activities to the director for inclusion in the annual report of the state
41 library.

42 D. A historic sites review committee consisting of nine members is
43 established to serve as a standing committee of the historical advisory
44 commission. The state historic preservation officer shall appoint committee
45 members for staggered terms of three years ending on July 1. The state

1 historic preservation officer may appoint persons other than commission
2 members to serve on the committee and shall appoint at least five persons who
3 are professionals qualified in the disciplines of history, prehistoric and
4 historic archaeology, architectural history or architecture. The committee
5 shall select annually at the first meeting a chairman who is a commission
6 member. The chairman shall report on committee activities at commission
7 meetings. The committee shall assist in the duties prescribed in this
8 section and by federal law, review nominations to the national and state
9 historic registers, provide general advice and guidance to the state historic
10 preservation officer and perform other duties as are necessary. On or before
11 September 1 of each year, the state historic preservation officer shall
12 submit a report of the committee's activities to the governor, the president
13 of the senate, the speaker of the house of representatives and the director,
14 including information prescribed in sections 41-862 and 41-881.

15 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:
16 42-5061. Retail classification; definitions

17 A. The retail classification is comprised of the business of selling
18 tangible personal property at retail. The tax base for the retail
19 classification is the gross proceeds of sales or gross income derived from
20 the business. The tax imposed on the retail classification does not apply to
21 the gross proceeds of sales or gross income from:

22 1. Professional or personal service occupations or businesses which
23 involve sales or transfers of tangible personal property only as
24 inconsequential elements.

25 2. Services rendered in addition to selling tangible personal property
26 at retail.

27 3. Sales of warranty or service contracts. The storage, use or
28 consumption of tangible personal property provided under the conditions of
29 such contracts is subject to tax under section 42-5156.

30 4. Sales of tangible personal property by any nonprofit organization
31 organized and operated exclusively for charitable purposes and recognized by
32 the United States internal revenue service under section 501(c)(3) of the
33 internal revenue code.

34 5. Sales to persons engaged in business classified under the
35 restaurant classification of articles used by human beings for food, drink or
36 condiment, whether simple, mixed or compounded.

37 6. Business activity which is properly included in any other business
38 classification which is taxable under article 1 of this chapter.

39 7. The sale of stocks and bonds.

40 8. Drugs and medical oxygen, including delivery hose, mask or tent,
41 regulator and tank, on the prescription of a member of the medical, dental or
42 veterinarian profession who is licensed by law to administer such substances.

43 9. Prosthetic appliances as defined in section 23-501 prescribed or
44 recommended by a health professional licensed pursuant to title 32, chapter
45 7, 8, 11, 13, 14, 15, 16, 17 or 29.

- 1 10. Insulin, insulin syringes and glucose test strips.
2 11. Prescription eyeglasses or contact lenses.
3 12. Hearing aids as defined in section 36-1901.
4 13. Durable medical equipment which has a centers for medicare and
5 medicaid services common procedure code, is designated reimbursable by
6 medicare, is prescribed by a person who is licensed under title 32, chapter
7 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
8 customarily used to serve a medical purpose, is generally not useful to a
9 person in the absence of illness or injury and is appropriate for use in the
10 home.
11 14. Sales to nonresidents of this state for use outside this state if
12 the vendor ships or delivers the tangible personal property out of this
13 state.
14 15. Food, as provided in and subject to the conditions of article 3 of
15 this chapter and section 42-5074.
16 16. Items purchased with United States department of agriculture food
17 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
18 958) or food instruments issued under section 17 of the child nutrition act
19 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
20 section 1786).
21 17. Textbooks by any bookstore that are required by any state
22 university or community college.
23 18. Food and drink to a person who is engaged in business which is
24 classified under the restaurant classification and which provides such food
25 and drink without monetary charge to its employees for their own consumption
26 on the premises during the employees' hours of employment.
27 19. Articles of food, drink or condiment and accessory tangible
28 personal property to a school district if such articles and accessory
29 tangible personal property are to be prepared and served to persons for
30 consumption on the premises of a public school within the district during
31 school hours.
32 20. Lottery tickets or shares pursuant to title 5, chapter 5,
33 article 1.
34 21. The sale of precious metal bullion and monetized bullion to the
35 ultimate consumer, but the sale of coins or other forms of money for
36 manufacture into jewelry or works of art is subject to the tax. For the
37 purposes of this paragraph:
38 (a) "Monetized bullion" means coins and other forms of money which are
39 manufactured from gold, silver or other metals and which have been or are
40 used as a medium of exchange in this or another state, the United States or a
41 foreign nation.
42 (b) "Precious metal bullion" means precious metal, including gold,
43 silver, platinum, rhodium and palladium, which has been smelted or refined so
44 that its value depends on its contents and not on its form.

1 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
2 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
3 valid single trip use fuel tax permit issued under section 28-5739, sales of
4 aviation fuel which are subject to the tax imposed under section 28-8344 and
5 sales of jet fuel which are subject to the tax imposed under article 8 of
6 this chapter.

7 23. Tangible personal property sold to a person engaged in the business
8 of leasing or renting such property under the personal property rental
9 classification if such property is to be leased or rented by such person.

10 24. Tangible personal property sold in interstate or foreign commerce
11 if prohibited from being so taxed by the Constitution of the United States or
12 the constitution of this state.

13 25. Tangible personal property sold to:

14 (a) A qualifying hospital as defined in section 42-5001.

15 (b) A qualifying health care organization as defined in section
16 42-5001 if the tangible personal property is used by the organization solely
17 to provide health and medical related educational and charitable services.

18 (c) A qualifying health care organization as defined in section
19 42-5001 if the organization is dedicated to providing educational,
20 therapeutic, rehabilitative and family medical education training for blind,
21 visually impaired and multihandicapped children from the time of birth to age
22 twenty-one.

23 (d) A qualifying community health center as defined in section
24 42-5001.

25 (e) A nonprofit charitable organization that has qualified under
26 section 501(c)(3) of the internal revenue code and that regularly serves
27 meals to the needy and indigent on a continuing basis at no cost.

28 (f) For taxable periods beginning from and after June 30, 2001, a
29 nonprofit charitable organization that has qualified under section 501(c)(3)
30 of the internal revenue code and that provides residential apartment housing
31 for low income persons over sixty-two years of age in a facility that
32 qualifies for a federal housing subsidy, if the tangible personal property is
33 used by the organization solely to provide residential apartment housing for
34 low income persons over sixty-two years of age in a facility that qualifies
35 for a federal housing subsidy.

36 26. Magazines or other periodicals or other publications by this state
37 to encourage tourist travel.

38 27. Tangible personal property sold to a person that is subject to tax
39 under this article by reason of being engaged in business classified under
40 the prime contracting classification under section 42-5075, or to a
41 subcontractor working under the control of a prime contractor that is subject
42 to tax under article 1 of this chapter, if the property so sold is any of the
43 following:

44 (a) Incorporated or fabricated by the person into any real property,
45 structure, project, development or improvement as part of the business.

1 (b) Used in environmental response or remediation activities under
2 section 42-5075, subsection B, paragraph 6.

3 (c) Incorporated or fabricated by the person into any lake facility
4 development in a commercial enhancement reuse district under conditions
5 prescribed for the deduction allowed by section 42-5075, subsection B,
6 paragraph 8.

7 28. The sale of a motor vehicle to:

8 (a) A nonresident of this state if the purchaser's state of residence
9 does not allow a corresponding use tax exemption to the tax imposed by
10 article 1 of this chapter and if the nonresident has secured a special ninety
11 day nonresident registration permit for the vehicle as prescribed by sections
12 28-2154 and 28-2154.01.

13 (b) An enrolled member of an Indian tribe who resides on the Indian
14 reservation established for that tribe.

15 29. Tangible personal property purchased in this state by a nonprofit
16 charitable organization that has qualified under section 501(c)(3) of the
17 United States internal revenue code and that engages in and uses such
18 property exclusively in programs for mentally or physically handicapped
19 persons if the programs are exclusively for training, job placement,
20 rehabilitation or testing.

21 30. Sales of tangible personal property by a nonprofit organization
22 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
23 of the internal revenue code if the organization is associated with a major
24 league baseball team or a national touring professional golfing association
25 and no part of the organization's net earnings inures to the benefit of any
26 private shareholder or individual.

27 31. Sales of commodities, as defined by title 7 United States Code
28 section 2, that are consigned for resale in a warehouse in this state in or
29 from which the commodity is deliverable on a contract for future delivery
30 subject to the rules of a commodity market regulated by the United States
31 commodity futures trading commission.

32 32. Sales of tangible personal property by a nonprofit organization
33 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
34 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
35 sponsors or operates a rodeo featuring primarily farm and ranch animals and
36 no part of the organization's net earnings inures to the benefit of any
37 private shareholder or individual.

38 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
39 propagative material to persons who use those items to commercially produce
40 agricultural, horticultural, viticultural or floricultural crops in this
41 state.

42 34. Machinery, equipment, technology or related supplies that are only
43 useful to assist a person who is physically disabled as defined in section
44 46-191, has a developmental disability as defined in section 36-551 or has a

1 head injury as defined in section 41-3201 to be more independent and
2 functional.

3 35. Sales of tangible personal property that is shipped or delivered
4 directly to a destination outside the United States for use in that foreign
5 country.

6 36. Sales of natural gas or liquefied petroleum gas used to propel a
7 motor vehicle.

8 37. Paper machine clothing, such as forming fabrics and dryer felts,
9 sold to a paper manufacturer and directly used or consumed in paper
10 manufacturing.

11 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
12 sold to a qualified environmental technology manufacturer, producer or
13 processor as defined in section 41-1514.02 and directly used or consumed in
14 the generation or provision of on-site power or energy solely for
15 environmental technology manufacturing, producing or processing or
16 environmental protection. This paragraph shall apply for fifteen full
17 consecutive calendar or fiscal years from the date the first paper
18 manufacturing machine is placed in service. In the case of an environmental
19 technology manufacturer, producer or processor who does not manufacture
20 paper, the time period shall begin with the date the first manufacturing,
21 processing or production equipment is placed in service.

22 39. Sales of liquid, solid or gaseous chemicals used in manufacturing,
23 processing, fabricating, mining, refining, metallurgical operations, research
24 and development and, beginning on January 1, 1999, printing, if using or
25 consuming the chemicals, alone or as part of an integrated system of
26 chemicals, involves direct contact with the materials from which the product
27 is produced for the purpose of causing or permitting a chemical or physical
28 change to occur in the materials as part of the production process. This
29 paragraph does not include chemicals that are used or consumed in activities
30 such as packaging, storage or transportation but does not affect any
31 deduction for such chemicals that is otherwise provided by this section. For
32 the purposes of this paragraph, "printing" means a commercial printing
33 operation and includes job printing, engraving, embossing, copying and
34 bookbinding.

35 40. Through December 31, 1994, personal property liquidation
36 transactions, conducted by a personal property liquidator. From and after
37 December 31, 1994, personal property liquidation transactions shall be
38 taxable under this section provided that nothing in this subsection shall be
39 construed to authorize the taxation of casual activities or transactions
40 under this chapter. For the purposes of this paragraph:

41 (a) "Personal property liquidation transaction" means a sale of
42 personal property made by a personal property liquidator acting solely on
43 behalf of the owner of the personal property sold at the dwelling of the
44 owner or upon the death of any owner, on behalf of the surviving spouse, if

1 any, any devisee or heir or the personal representative of the estate of the
2 deceased, if one has been appointed.

3 (b) "Personal property liquidator" means a person who is retained to
4 conduct a sale in a personal property liquidation transaction.

5 41. Sales of food, drink and condiment for consumption within the
6 premises of any prison, jail or other institution under the jurisdiction of
7 the state department of corrections, the department of public safety, the
8 department of juvenile corrections or a county sheriff.

9 42. A motor vehicle and any repair and replacement parts and tangible
10 personal property becoming a part of such motor vehicle sold to a motor
11 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
12 and who is engaged in the business of leasing or renting such property.

13 43. Livestock and poultry feed, salts, vitamins and other additives for
14 livestock or poultry consumption that are sold to persons who are engaged in
15 producing livestock, poultry, or livestock or poultry products or who are
16 engaged in feeding livestock or poultry commercially. For the purposes of
17 this paragraph, "poultry" includes ratites.

18 44. Sales of implants used as growth promotants and injectable
19 medicines, not already exempt under paragraph 8 of this subsection, for
20 livestock or poultry owned by or in possession of persons who are engaged in
21 producing livestock, poultry, or livestock or poultry products or who are
22 engaged in feeding livestock or poultry commercially. For the purposes of
23 this paragraph, "poultry" includes ratites.

24 45. Sales of motor vehicles at auction to nonresidents of this state
25 for use outside this state if the vehicles are shipped or delivered out of
26 this state, regardless of where title to the motor vehicles passes or its
27 free on board point.

28 46. Tangible personal property sold to a person engaged in business and
29 subject to tax under the transient lodging classification if the tangible
30 personal property is a personal hygiene item or articles used by human beings
31 for food, drink or condiment, except alcoholic beverages, which are furnished
32 without additional charge to and intended to be consumed by the transient
33 during the transient's occupancy.

34 47. Sales of alternative fuel, as defined in section 1-215, to a used
35 oil fuel burner who has received a permit to burn used oil or used oil fuel
36 under section 49-426 or 49-480.

37 48. Sales of materials that are purchased by or for publicly funded
38 libraries including school district libraries, charter school libraries,
39 community college libraries, state university libraries or federal, state,
40 county or municipal libraries for use by the public as follows:

41 (a) Printed or photographic materials, beginning August 7, 1985.

42 (b) Electronic or digital media materials, beginning July 17, 1994.

43 49. Tangible personal property sold to a commercial airline and
44 consisting of food, beverages and condiments and accessories used for serving
45 the food and beverages, if those items are to be provided without additional

1 charge to passengers for consumption in flight. For the purposes of this
2 paragraph, "commercial airline" means a person holding a federal certificate
3 of public convenience and necessity or foreign air carrier permit for air
4 transportation to transport persons, property or United States mail in
5 intrastate, interstate or foreign commerce.

6 50. Sales of alternative fuel vehicles if the vehicle was manufactured
7 as a diesel fuel vehicle and converted to operate on alternative fuel and
8 equipment that is installed in a conventional diesel fuel motor vehicle to
9 convert the vehicle to operate on an alternative fuel, as defined in section
10 1-215.

11 51. Sales of any spirituous, vinous or malt liquor by a person that is
12 licensed in this state as a wholesaler by the department of liquor licenses
13 and control pursuant to title 4, chapter 2, article 1.

14 52. Sales of tangible personal property to be incorporated or installed
15 as part of environmental response or remediation activities under section
16 42-5075, subsection B, paragraph 6.

17 53. Sales of tangible personal property by a nonprofit organization
18 that is exempt from taxation under section 501(c)(6) of the internal revenue
19 code if the organization produces, organizes or promotes cultural or civic
20 related festivals or events and no part of the organization's net earnings
21 inures to the benefit of any private shareholder or individual.

22 54. THROUGH AUGUST 31, 2014, SALES OF ARIZONA CENTENNIAL MEDALLIONS BY
23 THE HISTORICAL ADVISORY COMMISSION.

24 B. In addition to the deductions from the tax base prescribed by
25 subsection A of this section, the gross proceeds of sales or gross income
26 derived from sales of the following categories of tangible personal property
27 shall be deducted from the tax base:

28 1. Machinery, or equipment, used directly in manufacturing,
29 processing, fabricating, job printing, refining or metallurgical operations.
30 The terms "manufacturing", "processing", "fabricating", "job printing",
31 "refining" and "metallurgical" as used in this paragraph refer to and include
32 those operations commonly understood within their ordinary meaning.
33 "Metallurgical operations" includes leaching, milling, precipitating,
34 smelting and refining.

35 2. Mining machinery, or equipment, used directly in the process of
36 extracting ores or minerals from the earth for commercial purposes, including
37 equipment required to prepare the materials for extraction and handling,
38 loading or transporting such extracted material to the surface. "Mining"
39 includes underground, surface and open pit operations for extracting ores and
40 minerals.

41 3. Tangible personal property sold to persons engaged in business
42 classified under the telecommunications classification and consisting of
43 central office switching equipment, switchboards, private branch exchange
44 equipment, microwave radio equipment and carrier equipment including optical

1 fiber, coaxial cable and other transmission media which are components of
2 carrier systems.

3 4. Machinery, equipment or transmission lines used directly in
4 producing or transmitting electrical power, but not including distribution.
5 Transformers and control equipment used at transmission substation sites
6 constitute equipment used in producing or transmitting electrical power.

7 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
8 to be used as breeding or production stock, including sales of breedings or
9 ownership shares in such animals used for breeding or production.

10 6. Pipes or valves four inches in diameter or larger used to transport
11 oil, natural gas, artificial gas, water or coal slurry, including compressor
12 units, regulators, machinery and equipment, fittings, seals and any other
13 part that is used in operating the pipes or valves.

14 7. Aircraft, navigational and communication instruments and other
15 accessories and related equipment sold to:

16 (a) A person holding a federal certificate of public convenience and
17 necessity, a supplemental air carrier certificate under federal aviation
18 regulations (14 Code of Federal Regulations part 121) or a foreign air
19 carrier permit for air transportation for use as or in conjunction with or
20 becoming a part of aircraft to be used to transport persons, property or
21 United States mail in intrastate, interstate or foreign commerce.

22 (b) Any foreign government for use by such government outside of this
23 state.

24 (c) Persons who are not residents of this state and who will not use
25 such property in this state other than in removing such property from this
26 state. This subdivision also applies to corporations that are not
27 incorporated in this state, regardless of maintaining a place of business in
28 this state, if the principal corporate office is located outside this state
29 and the property will not be used in this state other than in removing the
30 property from this state.

31 8. Machinery, tools, equipment and related supplies used or consumed
32 directly in repairing, remodeling or maintaining aircraft, aircraft engines
33 or aircraft component parts by or on behalf of a certificated or licensed
34 carrier of persons or property.

35 9. Railroad rolling stock, rails, ties and signal control equipment
36 used directly to transport persons or property.

37 10. Machinery or equipment used directly to drill for oil or gas or
38 used directly in the process of extracting oil or gas from the earth for
39 commercial purposes.

40 11. Buses or other urban mass transit vehicles which are used directly
41 to transport persons or property for hire or pursuant to a governmentally
42 adopted and controlled urban mass transportation program and which are sold
43 to bus companies holding a federal certificate of convenience and necessity
44 or operated by any city, town or other governmental entity or by any person

1 contracting with such governmental entity as part of a governmentally adopted
2 and controlled program to provide urban mass transportation.

3 12. Groundwater measuring devices required under section 45-604.

4 13. New machinery and equipment consisting of tractors, tractor-drawn
5 implements, self-powered implements, machinery and equipment necessary for
6 extracting milk, and machinery and equipment necessary for cooling milk and
7 livestock, and drip irrigation lines not already exempt under paragraph 6 of
8 this subsection and that are used for commercial production of agricultural,
9 horticultural, viticultural and floricultural crops and products in this
10 state. For the purposes of this paragraph:

11 (a) "New machinery and equipment" means machinery and equipment which
12 have never been sold at retail except pursuant to leases or rentals which do
13 not total two years or more.

14 (b) "Self-powered implements" includes machinery and equipment that
15 are electric-powered.

16 14. Machinery or equipment used in research and development. For the
17 purposes of this paragraph, "research and development" means basic and
18 applied research in the sciences and engineering, and designing, developing
19 or testing prototypes, processes or new products, including research and
20 development of computer software that is embedded in or an integral part of
21 the prototype or new product or that is required for machinery or equipment
22 otherwise exempt under this section to function effectively. Research and
23 development do not include manufacturing quality control, routine consumer
24 product testing, market research, sales promotion, sales service, research in
25 social sciences or psychology, computer software research that is not
26 included in the definition of research and development, or other
27 nontechnological activities or technical services.

28 15. Machinery and equipment that are purchased by or on behalf of the
29 owners of a soundstage complex and primarily used for motion picture,
30 multimedia or interactive video production in the complex. This paragraph
31 applies only if the initial construction of the soundstage complex begins
32 after June 30, 1996 and before January 1, 2002 and the machinery and
33 equipment are purchased before the expiration of five years after the start
34 of initial construction. For the purposes of this paragraph:

35 (a) "Motion picture, multimedia or interactive video production"
36 includes products for theatrical and television release, educational
37 presentations, electronic retailing, documentaries, music videos, industrial
38 films, CD-ROM, video game production, commercial advertising and television
39 episode production and other genres that are introduced through developing
40 technology.

41 (b) "Soundstage complex" means a facility of multiple stages including
42 production offices, construction shops and related areas, prop and costume
43 shops, storage areas, parking for production vehicles and areas that are
44 leased to businesses that complement the production needs and orientation of
45 the overall facility.

1 16. Tangible personal property that is used by either of the following
2 to receive, store, convert, produce, generate, decode, encode, control or
3 transmit telecommunications information:

4 (a) Any direct broadcast satellite television or data transmission
5 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
6 100.

7 (b) Any satellite television or data transmission facility, if both of
8 the following conditions are met:

9 (i) Over two-thirds of the transmissions, measured in megabytes,
10 transmitted by the facility during the test period were transmitted to or on
11 behalf of one or more direct broadcast satellite television or data
12 transmission services that operate pursuant to 47 Code of Federal Regulations
13 parts 25 and 100.

14 (ii) Over two-thirds of the transmissions, measured in megabytes,
15 transmitted by or on behalf of those direct broadcast television or data
16 transmission services during the test period were transmitted by the facility
17 to or on behalf of those services.

18 For the purposes of subdivision (b) of this paragraph, "test period" means
19 the three hundred sixty-five day period beginning on the later of the date on
20 which the tangible personal property is purchased or the date on which the
21 direct broadcast satellite television or data transmission service first
22 transmits information to its customers.

23 17. Clean rooms that are used for manufacturing, processing,
24 fabrication or research and development, as defined in paragraph 14 of this
25 subsection, of semiconductor products. For the purposes of this paragraph,
26 "clean room" means all property that comprises or creates an environment
27 where humidity, temperature, particulate matter and contamination are
28 precisely controlled within specified parameters, without regard to whether
29 the property is actually contained within that environment or whether any of
30 the property is affixed to or incorporated into real property. Clean room:

31 (a) Includes the integrated systems, fixtures, piping, movable
32 partitions, lighting and all property that is necessary or adapted to reduce
33 contamination or to control airflow, temperature, humidity, chemical purity
34 or other environmental conditions or manufacturing tolerances, as well as the
35 production machinery and equipment operating in conjunction with the clean
36 room environment.

37 (b) Does not include the building or other permanent, nonremovable
38 component of the building that houses the clean room environment.

39 18. Machinery and equipment used directly in the feeding of poultry,
40 the environmental control of housing for poultry, the movement of eggs within
41 a production and packaging facility or the sorting or cooling of eggs. This
42 exemption does not apply to vehicles used for transporting eggs.

43 19. Machinery or equipment, including related structural components,
44 that is employed in connection with manufacturing, processing, fabricating,
45 job printing, refining, mining, natural gas pipelines, metallurgical

1 operations, telecommunications, producing or transmitting electricity or
2 research and development and that is used directly to meet or exceed rules or
3 regulations adopted by the federal energy regulatory commission, the United
4 States environmental protection agency, the United States nuclear regulatory
5 commission, the Arizona department of environmental quality or a political
6 subdivision of this state to prevent, monitor, control or reduce land, water
7 or air pollution.

8 20. Machinery and equipment that are sold to a person engaged in the
9 commercial production of livestock, livestock products or agricultural,
10 horticultural, viticultural or floricultural crops or products in this state
11 and that are used directly and primarily to prevent, monitor, control or
12 reduce air, water or land pollution.

13 21. Machinery or equipment that enables a television station to
14 originate and broadcast or to receive and broadcast digital television
15 signals and that was purchased to facilitate compliance with the
16 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
17 Code section 336) and the federal communications commission order issued
18 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
19 not exempt any of the following:

20 (a) Repair or replacement parts purchased for the machinery or
21 equipment described in this paragraph.

22 (b) Machinery or equipment purchased to replace machinery or equipment
23 for which an exemption was previously claimed and taken under this paragraph.

24 (c) Any machinery or equipment purchased after the television station
25 has ceased analog broadcasting, or purchased after November 1, 2009,
26 whichever occurs first.

27 22. Qualifying equipment that is purchased from and after June 30, 2004
28 through June 30, 2014 by a qualified business under section 41-1516 for
29 harvesting or the initial processing of qualifying forest products removed
30 from qualifying projects as defined in section 41-1516. To qualify for this
31 deduction, the qualified business at the time of purchase must present its
32 certification approved by the department.

33 23. Machinery, equipment and other tangible personal property used
34 directly in motion picture production by a motion picture production company.
35 To qualify for this deduction, at the time of purchase, the motion picture
36 production company must present to the retailer its certificate that is
37 issued pursuant to section 42-5009, subsection H and that establishes its
38 qualification for the deduction.

39 C. The deductions provided by subsection B of this section do not
40 include sales of:

41 1. Expendable materials. For the purposes of this paragraph,
42 expendable materials do not include any of the categories of tangible
43 personal property specified in subsection B of this section regardless of the
44 cost or useful life of that property.

45 2. Janitorial equipment and hand tools.

1 3. Office equipment, furniture and supplies.

2 4. Tangible personal property used in selling or distributing
3 activities, other than the telecommunications transmissions described in
4 subsection B, paragraph 16 of this section.

5 5. Motor vehicles required to be licensed by this state, except buses
6 or other urban mass transit vehicles specifically exempted pursuant to
7 subsection B, paragraph 11 of this section, without regard to the use of such
8 motor vehicles.

9 6. Shops, buildings, docks, depots and all other materials of whatever
10 kind or character not specifically included as exempt.

11 7. Motors and pumps used in drip irrigation systems.

12 D. In addition to the deductions from the tax base prescribed by
13 subsection A of this section, there shall be deducted from the tax base the
14 gross proceeds of sales or gross income derived from sales of machinery,
15 equipment, materials and other tangible personal property used directly and
16 predominantly to construct a qualified environmental technology
17 manufacturing, producing or processing facility as described in section
18 41-1514.02. This subsection applies for ten full consecutive calendar or
19 fiscal years after the start of initial construction.

20 E. In computing the tax base, gross proceeds of sales or gross income
21 from retail sales of heavy trucks and trailers does not include any amount
22 attributable to federal excise taxes imposed by 26 United States Code section
23 4051.

24 F. In computing the tax base, gross proceeds of sales or gross income
25 from the sale of use fuel, as defined in section 28-5601, does not include
26 any amount attributable to federal excise taxes imposed by 26 United States
27 Code section 4091.

28 G. If a person is engaged in an occupation or business to which
29 subsection A of this section applies, the person's books shall be kept so as
30 to show separately the gross proceeds of sales of tangible personal property
31 and the gross income from sales of services, and if not so kept the tax shall
32 be imposed on the total of the person's gross proceeds of sales of tangible
33 personal property and gross income from services.

34 H. If a person is engaged in the business of selling tangible personal
35 property at both wholesale and retail, the tax under this section applies
36 only to the gross proceeds of the sales made other than at wholesale if the
37 person's books are kept so as to show separately the gross proceeds of sales
38 of each class, and if the books are not so kept, the tax under this section
39 applies to the gross proceeds of every sale so made.

40 I. A person who engages in manufacturing, baling, crating, boxing,
41 barreling, canning, bottling, sacking, preserving, processing or otherwise
42 preparing for sale or commercial use any livestock, agricultural or
43 horticultural product or any other product, article, substance or commodity
44 and who sells the product of such business at retail in this state is deemed,
45 as to such sales, to be engaged in business classified under the retail

1 classification. This subsection does not apply to businesses classified
2 under the:

- 3 1. Transporting classification.
- 4 2. Utilities classification.
- 5 3. Telecommunications classification.
- 6 4. Pipeline classification.
- 7 5. Private car line classification.
- 8 6. Publication classification.
- 9 7. Job printing classification.
- 10 8. Prime contracting classification.
- 11 9. Owner builder sales classification.
- 12 10. Restaurant classification.

13 J. The gross proceeds of sales or gross income derived from the
14 following shall be deducted from the tax base for the retail classification:

- 15 1. Sales made directly to the United States government or its
16 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 17 2. Sales made directly to a manufacturer, modifier, assembler or
18 repairer if such sales are of any ingredient or component part of products
19 sold directly to the United States government or its departments or agencies
20 by the manufacturer, modifier, assembler or repairer.
- 21 3. Overhead materials or other tangible personal property that is used
22 in performing a contract between the United States government and a
23 manufacturer, modifier, assembler or repairer, including property used in
24 performing a subcontract with a government contractor who is a manufacturer,
25 modifier, assembler or repairer, to which title passes to the government
26 under the terms of the contract or subcontract.
- 27 4. Sales of overhead materials or other tangible personal property to
28 a manufacturer, modifier, assembler or repairer if the gross proceeds of
29 sales or gross income derived from the property by the manufacturer,
30 modifier, assembler or repairer will be exempt under paragraph 3 of this
31 subsection.

32 K. There shall be deducted from the tax base fifty per cent of the
33 gross proceeds or gross income from any sale of tangible personal property
34 made directly to the United States government or its departments or agencies,
35 which is not deducted under subsection J of this section.

36 L. The department shall require every person claiming a deduction
37 provided by subsection J or K of this section to file on forms prescribed by
38 the department at such times as the department directs a sworn statement
39 disclosing the name of the purchaser and the exact amount of sales on which
40 the exclusion or deduction is claimed.

41 M. In computing the tax base, gross proceeds of sales or gross income
42 does not include:

- 43 1. A manufacturer's cash rebate on the sales price of a motor vehicle
44 if the buyer assigns the buyer's right in the rebate to the retailer.
- 45 2. The waste tire disposal fee imposed pursuant to section 44-1302.

1 N. There shall be deducted from the tax base the amount received from
2 sales of solar energy devices. The retailer shall register with the
3 department as a solar energy retailer. By registering, the retailer
4 acknowledges that it will make its books and records relating to sales of
5 solar energy devices available to the department for examination.

6 O. In computing the tax base in the case of the sale or transfer of
7 wireless telecommunications equipment as an inducement to a customer to enter
8 into or continue a contract for telecommunications services that are taxable
9 under section 42-5064, gross proceeds of sales or gross income does not
10 include any sales commissions or other compensation received by the retailer
11 as a result of the customer entering into or continuing a contract for the
12 telecommunications services.

13 P. For the purposes of this section, a sale of wireless
14 telecommunications equipment to a person who holds the equipment for sale or
15 transfer to a customer as an inducement to enter into or continue a contract
16 for telecommunications services that are taxable under section 42-5064 is
17 considered to be a sale for resale in the regular course of business.

18 Q. Retail sales of prepaid calling cards or prepaid authorization
19 numbers for telecommunications services, including sales of reauthorization
20 of a prepaid card or authorization number, are subject to tax under this
21 section.

22 R. For the purposes of this section, the diversion of gas from a
23 pipeline by a person engaged in the business of:

24 1. Operating a natural or artificial gas pipeline, for the sole
25 purpose of fueling compressor equipment to pressurize the pipeline, is not a
26 sale of the gas to the operator of the pipeline.

27 2. Converting natural gas into liquefied natural gas, for the sole
28 purpose of fueling compressor equipment used in the conversion process, is
29 not a sale of gas to the operator of the compressor equipment.

30 S. If a seller is entitled to a deduction pursuant to subsection B,
31 paragraph 16, subdivision (b) of this section, the department may require the
32 purchaser to establish that the requirements of subsection B, paragraph 16,
33 subdivision (b) of this section have been satisfied. If the purchaser cannot
34 establish that the requirements of subsection B, paragraph 16, subdivision
35 (b) of this section have been satisfied, the purchaser is liable in an amount
36 equal to any tax, penalty and interest which the seller would have been
37 required to pay under article 1 of this chapter if the seller had not made a
38 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
39 section. Payment of the amount under this subsection exempts the purchaser
40 from liability for any tax imposed under article 4 of this chapter and
41 related to the tangible personal property purchased. The amount shall be
42 treated as transaction privilege tax to the purchaser and as tax revenues
43 collected from the seller to designate the distribution base pursuant to
44 section 42-5029.

1 T. For the purposes of section 42-5032.01, the department shall
2 separately account for revenues collected under the retail classification
3 from businesses selling tangible personal property at retail:

4 1. On the premises of a multipurpose facility that is owned, leased or
5 operated by the tourism and sports authority pursuant to title 5, chapter 8.

6 2. At professional football contests that are held in a stadium
7 located on the campus of an institution under the jurisdiction of the Arizona
8 board of regents.

9 U. In computing the tax base for the sale of a motor vehicle to a
10 nonresident of this state, if the purchaser's state of residence allows a
11 corresponding use tax exemption to the tax imposed by article 1 of this
12 chapter and the rate of the tax in the purchaser's state of residence is
13 lower than the rate prescribed in article 1 of this chapter or if the
14 purchaser's state of residence does not impose an excise tax, and the
15 nonresident has secured a special ninety day nonresident registration permit
16 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
17 be deducted from the tax base a portion of the gross proceeds or gross income
18 from the sale so that the amount of transaction privilege tax that is paid in
19 this state is equal to the excise tax that is imposed by the purchaser's
20 state of residence on the nonexempt sale or use of the motor vehicle.

21 V. For the purposes of this section:

22 1. "Aircraft" includes:

23 (a) An airplane flight simulator that is approved by the federal
24 aviation administration for use as a phase II or higher flight simulator
25 under appendix H, 14 Code of Federal Regulations part 121.

26 (b) Tangible personal property that is permanently affixed or attached
27 as a component part of an aircraft that is owned or operated by a
28 certificated or licensed carrier of persons or property.

29 2. "Other accessories and related equipment" includes aircraft
30 accessories and equipment such as ground service equipment that physically
31 contact aircraft at some point during the overall carrier operation.

32 3. "Selling at retail" means a sale for any purpose other than for
33 resale in the regular course of business in the form of tangible personal
34 property, but transfer of possession, lease and rental as used in the
35 definition of sale mean only such transactions as are found on investigation
36 to be in lieu of sales as defined without the words lease or rental.

37 W. For the purposes of subsection J of this section:

38 1. "Assembler" means a person who unites or combines products, wares
39 or articles of manufacture so as to produce a change in form or substance
40 without changing or altering the component parts.

41 2. "Manufacturer" means a person who is principally engaged in the
42 fabrication, production or manufacture of products, wares or articles for use
43 from raw or prepared materials, imparting to those materials new forms,
44 qualities, properties and combinations.

1 3. "Modifier" means a person who reworks, changes or adds to products,
2 wares or articles of manufacture.

3 4. "Overhead materials" means tangible personal property, the gross
4 proceeds of sales or gross income derived from which would otherwise be
5 included in the retail classification, and which are used or consumed in the
6 performance of a contract, the cost of which is charged to an overhead
7 expense account and allocated to various contracts based upon generally
8 accepted accounting principles and consistent with government contract
9 accounting standards.

10 5. "Repairer" means a person who restores or renews products, wares or
11 articles of manufacture.

12 6. "Subcontract" means an agreement between a contractor and any
13 person who is not an employee of the contractor for furnishing of supplies or
14 services that, in whole or in part, are necessary to the performance of one
15 or more government contracts, or under which any portion of the contractor's
16 obligation under one or more government contracts is performed, undertaken or
17 assumed and that includes provisions causing title to overhead materials or
18 other tangible personal property used in the performance of the subcontract
19 to pass to the government or that includes provisions incorporating such
20 title passing clauses in a government contract into the subcontract.

21 Sec. 3. Section 42-6004, Arizona Revised Statutes, is amended to read:

22 42-6004. Exemption from municipal tax

23 A. A city, town or special taxing district shall not levy a
24 transaction privilege, sales, use or other similar tax on:

25 1. Exhibition events in this state sponsored, conducted or operated by
26 a nonprofit organization that is exempt from taxation under section
27 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
28 organization is associated with a major league baseball team or a national
29 touring professional golfing association and no part of the organization's
30 net earnings inures to the benefit of any private shareholder or individual.

31 2. Interstate telecommunications services, which include that portion
32 of telecommunications services, such as subscriber line service, allocable by
33 federal law to interstate telecommunications service.

34 3. Sales of warranty or service contracts.

35 4. Sales of motor vehicles to nonresidents of this state for use
36 outside this state if the vendor ships or delivers the motor vehicle to a
37 destination outside this state.

38 5. Interest on finance contracts.

39 6. Dealer documentation fees on the sales of motor vehicles.

40 7. Through December 31, 2009, the gross proceeds of sales or gross
41 income received from a contract from constructing any lake facility
42 development in a commercial enhancement reuse district established pursuant
43 to section 9-499.08.

44 8. Sales of food or other items purchased with United States
45 department of agriculture food stamp coupons issued under the food stamp act

1 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
2 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
3 section 4302; 42 United States Code section 1786) but may impose such a tax
4 on other sales of food. If a city, town or special taxing district exempts
5 sales of food from its tax or imposes a different transaction privilege rate
6 on the gross proceeds of sales or gross income from sales of food and nonfood
7 items, it shall use the definition of food prescribed by rule adopted by the
8 department pursuant to section 42-5106.

9 9. Sales of internet access services to the person's subscribers and
10 customers. For the purposes of this paragraph:

11 (a) "Internet" means the computer and telecommunications facilities
12 that comprise the interconnected worldwide network of networks that employ
13 the transmission control protocol or internet protocol, or any predecessor or
14 successor protocol, to communicate information of all kinds by wire or radio.

15 (b) "Internet access" means a service that enables users to access
16 content, information, electronic mail or other services over the internet.
17 Internet access does not include telecommunication services provided by a
18 common carrier.

19 10. The gross proceeds of sales or gross income retained by the Arizona
20 exposition and state fair board from ride ticket sales at the annual Arizona
21 state fair.

22 11. THROUGH AUGUST 31, 2014, SALES OF ARIZONA CENTENNIAL MEDALLIONS BY
23 THE HISTORICAL ADVISORY COMMISSION.

24 B. A city, town or other taxing jurisdiction shall not levy a
25 transaction privilege, sales, use, franchise or other similar tax or fee,
26 however denominated, on natural gas or liquefied petroleum gas used to propel
27 a motor vehicle.

28 C. A city, town or other taxing jurisdiction shall not levy a
29 transaction privilege, sales, gross receipts, use, franchise or other similar
30 tax or fee, however denominated, on gross proceeds of sales or gross income
31 derived from any of the following:

32 1. A motor carrier's use on the public highways in this state if the
33 motor carrier is subject to a fee prescribed in title 28, chapter 16,
34 article 4.

35 2. Leasing, renting or licensing a motor vehicle subject to and upon
36 which the fee has been paid under title 28, chapter 16, article 4.

37 3. The sale of a motor vehicle and any repair and replacement parts
38 and tangible personal property becoming a part of such motor vehicle to a
39 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
40 article 4 and who is engaged in the business of leasing, renting or licensing
41 such property.

42 4. Incarcerating or detaining in a privately operated prison, jail or
43 detention facility prisoners who are under the jurisdiction of the United
44 States, this state or any other state or a political subdivision of this
45 state or of any other state.

1 5. Transporting for hire persons, freight or property by light motor
2 vehicles subject to a fee under title 28, chapter 15, article 4.

3 6. Through December 31, 2009, and except as provided in section
4 42-6104, a contract from constructing any lake facility development in a
5 commercial enhancement reuse district established pursuant to section
6 9-499.08.

7 7. Development or impact fees included in a construction or
8 development contract for payment to the state or a local government to offset
9 governmental costs of providing public infrastructure, public safety and
10 other public services to a development.

11 D. A city, town or other taxing jurisdiction shall not levy a
12 transaction privilege, sales, use, franchise or other similar tax or fee,
13 however denominated, in excess of one-tenth of one per cent of the value of
14 the entire product mined, smelted, extracted, refined, produced or prepared
15 for sale, profit or commercial use, on persons engaged in the business of
16 mineral processing, except to the extent that the tax is computed on the
17 gross proceeds or gross income from sales at retail.

18 E. In computing the tax base, any city, town or other taxing
19 jurisdiction shall not include in the gross proceeds of sales or gross
20 income:

21 1. A manufacturer's cash rebate on the sales price of a motor vehicle
22 if the buyer assigns the buyer's right in the rebate to the retailer.

23 2. The waste tire disposal fee imposed pursuant to section 44-1302.

24 Sec. 4. Laws 2005, chapter 1, section 3, as amended by Laws 2006,
25 chapter 350, section 4, is amended to read:

26 Sec. 3. Arizona centennial 2012; centennial medallion

27 A. The historical advisory commission shall develop and coordinate a
28 statewide plan regarding this state's centennial in 2012. The plan shall
29 include the following:

30 1. Advising the legislature and state agencies on centennial history
31 and heritage, arts and culture and related activities.

32 2. Assisting the governor's countdown to the centennial to support
33 school children learning about this state's history.

34 3. Recommending and funding activities and projects that will ensure
35 lasting legacy accomplishments to commemorate the centennial.

36 4. ISSUING COMMEMORATIVE MEDALS, SEALS, LICENSE PLATES AND
37 CERTIFICATES OF RECOGNITION.

38 5. RECOMMENDING PROPOSALS FOR LEGISLATION AND PERFORMING
39 ADMINISTRATIVE ACTION THAT THE COMMISSION CONSIDERS NECESSARY TO CARRY OUT
40 THE COMMISSION'S RECOMMENDATIONS.

41 B. The historical advisory commission may accept and spend
42 appropriations, grants, gifts, contributions and devises to assist in
43 carrying out this section, INCLUDING THE MANUFACTURING OF THE CENTENNIAL
44 MEDALLIONS. The historical advisory commission may accept and spend grants,
45 gifts, contributions and devises to contract for administrative and clerical

1 staff, professional and administrative experts and other staff as necessary
2 to enable the commission to carry out this section.

3 C. THE HISTORICAL ADVISORY COMMISSION SHALL DESIGN, PRODUCE AND SELL
4 COMMEMORATIVE 99.9 PER CENT PURE GOLD, SILVER AND COPPER MEDALLIONS, WITH
5 WEIGHTS THAT DO NOT EXCEED ONE TROY OUNCE. THE MEDALLIONS SHALL BE TWO-SIDED
6 DISKS OF NOT MORE THAN FIVE MILLIMETERS IN THICKNESS, SHALL HAVE THE SEAL OF
7 THE STATE OF ARIZONA STRUCK ON ONE SIDE AND SHALL HAVE A REPRESENTATION OF
8 THE ARIZONA STATE FLAG STRUCK ON THE OTHER SIDE ALONG WITH THE TEXT "ARIZONA
9 CENTENNIAL MEDALLION - FEBRUARY 14, 1912 - 2012" AND THE WEIGHT OF THE DISK
10 IN FRACTIONS OF TROY OUNCES OR GRAMS. THE DEPARTMENT OF WEIGHTS AND MEASURES
11 SHALL CERTIFY THE WEIGHT AND PURITY OF THE CENTENNIAL MEDALLIONS. THE
12 HISTORICAL ADVISORY COMMISSION SHALL NEGOTIATE THE MANUFACTURE AND SALE OF
13 THE CENTENNIAL MEDALLIONS. THE SALE PRICE OF THE MEDALLIONS SHALL NOT BE
14 MORE THAN TEN PER CENT HIGHER THAN THE MANUFACTURING COST OF THE MEDALLIONS.
15 MANUFACTURING QUANTITY SHALL BE PRODUCED TO MEET ON GOING PUBLIC DEMAND.

16 D. IN FULFILLING ITS RESPONSIBILITIES, THE HISTORICAL ADVISORY
17 COMMISSION SHALL CONSULT AND COOPERATE WITH AND SEEK ADVICE FROM APPROPRIATE
18 STATE AGENCIES, LOCAL AND PUBLIC BODIES, LEARNED SOCIETIES AND HISTORICAL,
19 PATRIOTIC, PHILANTHROPIC, CIVIC, PROFESSIONAL AND RELATED ORGANIZATIONS.
20 STATE AGENCIES SHALL COOPERATE WITH THE COMMISSION IN PLANNING, ENCOURAGING,
21 DEVELOPING AND COORDINATING APPROPRIATE COMMEMORATIVE ACTIVITIES. THE
22 PRESIDENT OF EACH STATE UNIVERSITY SHALL COOPERATE WITH THE COMMISSION,
23 ESPECIALLY IN THE ENCOURAGEMENT AND COORDINATION OF SCHOLARLY WORKS AND
24 PRESENTATIONS ON THE HISTORY, CULTURE AND POLITICAL ACTIVITIES RELATED TO THE
25 ARIZONA STATEHOOD ERA. THE OFFICE OF TOURISM SHALL COOPERATE WITH THE
26 COMMISSION IN MARKETING TO POTENTIAL VISITORS TO THIS STATE COMMEMORATIVE
27 ACTIVITIES ENABLING VISITORS TO EXPERIENCE THE CULTURAL HERITAGE OF THIS
28 STATE.